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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,521	06/21/2007	Ralf Zauritz	12400-068	2060
757 7590 03/24/2010 BRINKS HOFER GILSON & LIONE P.O. BOX 10395 CHICAGO, IL 60610				
EXAMINER AMORES, KAREN J				
ART UNIT 3616		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/588,521

Applicant(s)

ZAURITZ ET AL.

Examiner

KAREN JANE J. AMORES

Art Unit

3616

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5, 7-12 and 14-20 is/are rejected.
- 7) ☒ Claim(s) 3, 6 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

10588DETAILED ACTION

Priority

1. Applicant is advised of possible benefits under 35 U.S.C. 119(a)-(d), wherein an application for patent filed in the United States may be entitled to the benefit of the filing date of a prior application filed in a foreign country.
2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 01 September 2004. It is noted, however, that applicant has not filed a certified copy of the 10 2004 404 2209.5 application as required by 35 U.S.C. 119(b).
3. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 06 October 2004. It is noted, however, that applicant has not filed a certified copy of the 10 2004 404 8898.3 application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 2, 4, 5, 7, 8 – 12, 14 – 16, and 18 – 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Hofmann et al. U.S. 7,475,904 and under 102(a), (b) and (c) by Hoffman et

al. U.S. 2005/0184493 ("Hofmann"). Hofmann discloses an airbag (14) for use in a motor vehicle (fig. 1) comprising:

6. an airbag cover (14) enclosing a gas chamber (16) and having an exterior surface facing an exterior environment (10) at least one venting arrangement which fluidly connects the gas chamber to the exterior environment (fig. 2a), wherein a gas flow (24) is throttled or blocked by the venting arrangement when a certain area (18) of the airbag cover meets an obstacle (12), and the venting arrangement includes at least one opening in the airbag cover, and the venting arrangement also includes at least one tube disposed on the exterior surface of the airbag cover and connected with the airbag cover in which the at least one opening ends, and the tube exhibits includes an exit opening (side of 34) to the exterior environment.

7. In reference to claims 2, 4, 5, 7, and 18 – 20, Hofmann further discloses the exit opening is one end of the tube; wherein the tube includes a fabric element (34) fixed on the airbag cover so that a part (30) of the tube walls are formed of a section (14) of the airbag cover; wherein the fabric element is located on the side of the airbag cover which faces occupants of the motor vehicle; at least one additional opening (22) in the airbag cover positioned such that the additional opening does not end in the at least one tube; wherein the tube is positioned such that upon deployment of the airbag a large occupant (20b) of the motor vehicle will contact the tube and block the gas flow to the exterior environment and a small occupant (20a) will not contact the tube, permitting the gas flow to continue; wherein the large occupant includes a fiftieth percentile male (20b); and wherein the small occupant includes a fifth percentile female (20a).

8. In reference to claim 8, Hofmann discloses a motor vehicle (fig. 2b) including a side airbag (14), the side airbag comprising: with an airbag cover (14) enclosing a gas chamber (16)

and at least one venting arrangement which connects the gas chamber to an exterior environment (fig. 4a), and the a gas stream flow (fig. 6b) is throttled or blocked when a certain area (24) of the airbag cover meets an obstacle (2b), wherein the venting arrangement includes at least one opening in the airbag cover, and the venting arrangement also includes at least one tube connected with the airbag cover, in which the at least one opening ends, whereby and the tube includes an exit opening (side of 34) to an exterior environment (fig. 6c) going towards the outside, and wherein the tube is located at the shoulder height of a fiftieth percentile male (2b) when located in his a normal seating position (fig. 5) with the airbag expanded.

9. In reference to claim 9, Hofmann discloses a motor vehicle (fig. 2a) with including a front airbag (for seat 10), the front airbag comprising: an airbag cover (14) enclosing a gas chamber (16) and including an impact surface (14) and at least one venting arrangement which connects the gas chamber to an exterior environment (fig 2b), wherein a gas flow (fig. 3a) is throttled or blocked when a certain area (26) of the airbag cover meets an obstacle (2b), and the venting arrangement includes at least one opening in the airbag cover, and the venting tube also includes at least one tube connected with the airbag cover, in which the at least one opening ends, and wherein the tube includes an exit (side of 34) to the exterior environment.

10. In reference to claims 10 – 12 and 14 – 16, Hofmann further discloses the at least one tube is located on the impact surface of the airbag; wherein the at least one tube located on the impact surface extends in an angled upward direction (fig. 4a) from a lower central area (18) of the impact surface sloping in an upwards direction (fig. 4b); a plurality of openings (22); wherein the tube on the impact surface extends substantially horizontally across the impact surface from a central upper area (16); wherein the front airbag is a passenger airbag (14) and the tube is located

at an area (24) of the airbag cover between the impact surface and an instrument panel (12) of the motor vehicle, and the tube extends basically at an angle (26) to the longitudinal direction of the vehicle.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abe, U.S. 6,712,384 ("Abe") in view of Hofmann. Abe discloses a motor vehicle (fig. 1) including a front airbag (14), the front airbag comprising:

13. an airbag cover (fig. 2) enclosing a gas chamber (14) and having an exterior surface (14t) that faces an exterior environment (fig. 3) and which includes including an impact surface (14t); and at least one venting arrangement (14h) which fluidly connects the gas chamber to the exterior environment, wherein a gas flow (fig. 2) is throttled or blocked when a certain area (14t) of the airbag cover meets an obstacle (30), and the venting arrangement includes at least one opening in the airbag cover.

14. Abe does not directly disclose the details of the venting arrangement. Hofmann teaches a venting arrangement (24) including at least one tube disposed on an exterior surface (14) of an airbag cover (14) and connected with the airbag cover in which at least one opening ends, and the tube includes an exit opening (end of 34) to the exterior environment. It would have been

obvious for a person having ordinary skill in the art at the time the invention was made to modify Abe such that it comprised the details of the venting arrangement in view of the teachings of Hofmann so as to provide a vent in which its position allows selection for gas exit flow according the size of the occupant and severity of the accident (column 3, line 40).

15. Abe in view of Hofmann further discloses the front airbag is a passenger airbag (14) and the tube is located on an area (14t) of the exterior surface of the airbag cover between the impact surface and an instrument panel (10) of the motor vehicle, and the tube extends basically at an angle (when placed in combination with Hofmann) to the longitudinal direction of the vehicle; and wherein the tube is located approximately at a knee level (14h) of a vehicle occupant (occupant).

Response to Arguments

Applicant's arguments filed 10 November 2009 have been fully considered but they are not persuasive. Applicants argue that Hofmann does not qualify as prior art to this application. However, the Applicants have not perfected priority to the German application as stated above. In addition, Hofmann, U.S. 2005/0184493 was filed 31 January 2005, and published 25 August 2005. Therefore the reference Hofmann was published and in a printed publication in this country more than one year prior to the date of application for patent in the United States of Applicants' invention.

Allowable Subject Matter

Claims 3, 6, and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAREN JANE J. AMORES whose telephone number is (571)272-6212. The examiner can normally be reached on Monday through Friday, 8:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571)-272-7742. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KAREN J AMORES
Examiner
Art Unit 3616

/K. J. A./
Examiner, Art Unit 3616

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